

178 FERC ¶ 61,165  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Richard Glick, Chairman;  
James P. Danly, Allison Clements,  
Mark C. Christie, and Willie L. Phillips.

New York Independent System Operator, Inc.

Docket No. ER21-2526-001

ORDER ON COMPLIANCE AND REQUEST FOR WAIVERS

(Issued March 7, 2022)

1. On July 27, 2021, and as amended on October 1, 2021, New York Independent System Operator, Inc. (NYISO) filed revised tariff records<sup>1</sup> to its Open Access Transmission Tariff (OATT) and Market Administration and Control Area Services Tariff (Services Tariff), and requests for waivers to comply with the requirements of Order No. 676-I.<sup>2</sup> In Order No. 676-I, the Commission revised its regulations to incorporate by reference Version 003.2 of the Standards for Business Practices and Communication Protocols for Public Utilities (Business Practice Standards) adopted by the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB) as mandatory enforceable requirements. In this order, we accept NYISO's revised tariff records, effective May 1, 2022, subject to an additional compliance filing submitted within 30 days of the date of this order, as described below, and grant NYISO's requests for waivers.

**I. Background**

2. On February 4, 2020, the Commission issued Order No. 676-I, which amends the Commission's regulations under the Federal Power Act (FPA)<sup>3</sup> to incorporate by reference, with certain enumerated exceptions, the WEQ Version 003.2 of the Business Practice Standards adopted by NAESB. The NAESB Business Practice

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<sup>1</sup> New York Independent System Operator, Inc., NYISO Tariffs, [NYISO OATT, 2.17 OATT Incorporation of Certain Business Practice Standards \(6.0.0\)](#) and [NYISO MST, 5.1 MST Control Area Services \(9.0.0\)](#).

<sup>2</sup> *Standards for Bus. Pracs. & Commc'n Protocols for Pub. Utils.*, Order No. 676-I, 85 Fed. Reg. 10,571 (Feb. 25, 2020), 170 FERC ¶ 61,062 (2020) (Order No. 676-I).

<sup>3</sup> 16 U.S.C. § 791a, *et seq.*

Standards are intended to standardize and streamline the transactional processes of the natural gas and electric industries, as well as the communication protocols and related standards designed to improve the efficiency of communication within each industry. The WEQ Version 003.2 Business Practice Standards include the WEQ Version 003.1 Business Practice Standards in their entirety, with certain modifications made in WEQ Version 003.2.<sup>4</sup>

3. In Order No. 676-I, the Commission incorporated by reference WEQ-000, WEQ-001, WEQ-002, WEQ-003, WEQ-004, WEQ-005, WEQ-006, WEQ-007, WEQ-008, WEQ-011, WEQ-012, WEQ-013, WEQ-015, WEQ-021, WEQ-022, and WEQ-023.<sup>5</sup> The Commission did not adopt the NOPR proposal to incorporate by reference NAESB's latest version of the WEQ-006 Manual Time Error Correction Business Practice Standards. However, the Commission did update NAESB's Smart Grid Standards (set out in Business Practice Standards WEQ-018 and WEQ-019) that the Commission listed for informational purposes in Part 2 of the Commission's Regulations.<sup>6</sup> In addition, the Commission incorporated by reference the proposed WEQ-022 Electric Industry Registry (EIR) Business Practice Standards, but did not incorporate by reference the entirety of the proposed WEQ-023 Modeling Business Practice Standards.<sup>7</sup> All of these Business Practice Standards, except for WEQ-022 and WEQ-023, update and replace standards that the Commission previously incorporated by reference in Order No. 676-H.<sup>8</sup>

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<sup>4</sup> NAESB filed WEQ Version 003.1 of the Standards for Business Practices and Communication Protocols for Public Utilities on October 26, 2015. The WEQ Version 003.1 Business Practice Standards were the subject of a Notice of Proposed Rulemaking (NOPR) but never separately incorporated by reference by the Commission. *See Standards for Bus. Pracs. & Commc'n Protocols for Pub. Utils.*, Notice of Proposed Rulemaking, 156 FERC ¶ 61,055 (2016).

<sup>5</sup> Order No. 676-I, 170 FERC ¶ 61,062 at PP 70-86.

<sup>6</sup> *Id.* P 77 (2014).

<sup>7</sup> *See* Order No. 676-I, 170 FERC ¶ 61,062 at P 5.

<sup>8</sup> In Order No. 676-I, the Commission updated the reference to Business Practice Standard WEQ-019 in Part 2 of its regulations, which houses statements of general policy and interpretations of the Commission. The references to the other smart grid standards are listed informationally, in Part 2 of the regulations, at 18 C.F.R. § 2.27, as non-mandatory guidance, were unchanged, and do not require updating. These are Business Practice Standards WEQ-016, WEQ-017, and WEQ-020. The Commission also listed for informational purposes, as non-mandatory guidance, Business Practice Standard WEQ-018.

4. In Order No. 676-I, the Commission explained that public utilities could comply with the final rule, and any subsequent Commission orders incorporating NAESB Business Practice Standards, by incorporating the complete set of NAESB Business Practice Standards into their tariffs without modification by making a filing with the Commission to include the following language in their tariffs: “[t]he current versions of the NAESB WEQ Business Practice Standards incorporated by reference into the Commission’s regulations as specified in Part 38 of the Commission’s regulations (18 CFR part 38) are incorporated by reference into this tariff.”<sup>9</sup> Alternatively, public utilities must make a compliance filing providing a list of the NAESB Business Practice Standards included in their tariff and any waivers they have been granted by the Commission.<sup>10</sup>

5. The Commission initially directed public utilities to submit their Order No. 676-I compliance filings by May 25, 2020, and to make the tariff revisions in those filings using an indeterminant effective date (12/31/9998) for the tariff records.<sup>11</sup> However, in response to a motion for extension of time, the Commission extended the date for compliance and waiver filings to July 27, 2021.<sup>12</sup>

6. In addition, on March 3, 2020, the Commission issued a notice explaining that in publishing the final rule, the *Federal Register* made various formatting and editorial changes to the text of the regulations, 18 C.F.R. §§ 2.27 and 38.1 (2021), where the Commission incorporates by reference NAESB’s WEQ Business Practice Standards.<sup>13</sup> The Commission stated that the regulatory text included with the Commission’s Order No. 676-I, as issued by the Commission, would be revised by the March 3, 2020 notice to reflect the regulatory text as published in the *Federal Register*.<sup>14</sup>

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<sup>9</sup> Order No. 676-I, 170 FERC ¶ 61,062 at P 67.

<sup>10</sup> *Id.* P 66. The Commission provided that a public utility requesting waivers of any Business Practice Standards, as well as continuation of existing waivers, must file a request for waivers of each specific provision, along with its reasons supporting the request. *See id.* P 20.

<sup>11</sup> *Id.* PP 20, 65.

<sup>12</sup> *Standards for Bus. Pracs. & Commc’n Protocols for Pub. Utils.*, Notice of Extension of Time, Docket No. RM05-5-028 (Apr. 3, 2020). The Notice stated that the Commission would not establish an implementation date earlier than October 27, 2021.

<sup>13</sup> *Standards for Bus. Pracs. & Commc’n Protocols for Pub. Utils.*, Errata Notice, Docket No. RM05-5-025, *et al.* (Mar. 3, 2020).

<sup>14</sup> An additional notice was issued on July 20, 2021, to correct the filing code to be used to submit tariff sheets in compliance with Order No. 676-I as Type of Filing Code

## II. NYISO's Filings

7. NYISO proposes to incorporate certain NAESB Business Practice Standards, incorporated by reference by the Commission in Order No. 676-I, into its OATT and Services Tariff.<sup>15</sup> NYISO also requests new and continued waivers of various Business Practice Standards. NYISO states that the Commission previously granted numerous requested waivers from WEQ Version 003.<sup>16</sup> NYISO also requests that the Commission grant certain continued waivers for WEQ Version 003.2 of the NAESB Business Practice Standards, as more fully discussed below, as the NYISO's "financial reservation" transmission model renders numerous business practice standards inapplicable to NYISO and its market participants.<sup>17</sup> Additionally, NYISO requests that the Commission grant waiver from new Business Practice Standards WEQ-001-24 and WEQ-001-25, as also discussed in more detail below.<sup>18</sup>

8. On October 1, 2021, NYISO submitted an amended compliance filing to correct errors and make formatting and editorial changes that were included in the Commission's errata notice on March 3, 2020.<sup>19</sup>

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80. *Standards for Bus. Pracs. & Commc'n Protocols for Pub. Utils.*, Errata Notice, Docket No. RM05-5-025, *et al.* (July 20, 2021).

<sup>15</sup> Transmittal at 2.

<sup>16</sup> *Id.* at 3 (citing *N.Y. Indep. Sys. Operator, Inc.*, 151 FERC ¶ 61,157 (2015) (2015 Waiver Order)).

<sup>17</sup> *Id.* at 3-4. NYISO states that its "financial reservation model provides a bid-based, financial rights version of Point-to-Point Transmission Service. It uses Locational Based Marginal Pricing to manage congestion and to operate bid-based spot markets. With the exception of transactions over inter-regional controllable Scheduled Lines operated by neighboring system operators, the NYISO's system does not provide for customers to make express, physical reservations of transmission service such as those contemplated by [Network Integration Transmission Service]. Instead, customers schedule transmission service implicitly when they submit spot market energy schedules or arrange for bilateral transactions. Customers can schedule transactions between any two points so long as doing so is not inconsistent with security-constrained economic dispatch. All desired uses of the transmission system are scheduled to the extent that customers are willing to pay congestion charges, which can be hedged using financial rights."

<sup>18</sup> *Id.* at 3.

<sup>19</sup> Errata Filing at 1. *See Standards for Bus. Practices & Commc'n Protocols for Pub. Utils.*, Errata Notice, Docket Nos. RM05-5-025, RM05-5-026, and RM05-5-027,

### A. Request for Renewed Waivers

9. In the 2015 Waiver Order, the Commission granted NYISO's request for waiver of certain of the Business Practice Standards from WEQ Version 003. NYISO asks that the Commission continue for WEQ Version 003.2 the waivers it granted for WEQ Version 003 because NYISO's financial reservation transmission model continues to render numerous of these business practice standards inapplicable to NYISO and its market participants. According to NYISO, its financial reservation transmission model, approved by the Commission in 1999, differs substantially from the "physical reservation" model contemplated by the Order No. 890 *pro forma* OATT.<sup>20</sup> Additionally, NYISO states that since 1999, the Commission has approved substantial revisions to the NYISO OATT to reflect fundamental differences between NYISO's financial reservation transmission model and the physical reservation model, specifically to reflect the fact that NYISO effectively offers a single form of financial reservation-based transmission service within a framework of Locational Based Marginal Prices and continuous economic redispatching.<sup>21</sup>

10. NYISO states that, for each standard and requirement it identified in its request for waiver from the WEQ Version 003 Business Practice Standards, the rationale the Commission set forth for granting each waiver is unchanged today.<sup>22</sup> According to NYISO, the revisions made by NAESB from WEQ Version 003 to Version 003.2 do not change or lessen the reasons set forth by NYISO for seeking the prior waivers or alter the Commission's stated justification for granting them. NYISO contends that if the Commission were to require NYISO to comply with any of these standards for which waiver is requested, neither NYISO's customers nor the Commission itself would receive any useful or relevant information. Further, NYISO argues that, in many cases, NYISO would also be faced with unnecessary and expensive compliance burdens. Therefore, NYISO asserts that circumstances warrant continuing the following waivers of Business Practice Standards:

- WEQ-001, Standards 001-2, 001-3, 001-4, 001-5, 001-6, 001-7, 001-8, 001-9, 001-10, 001-11, 001-12, 001-13.1.2, 001-13.1.3(c), 001-14, 001-15, 001-16, 001-17, 001-17, 001-20, 001-21, 001-22, 001-23, 001-101 through

(March 3, 2020).

<sup>20</sup> Transmittal at 3 (citing *Cent. Hudson Gas & Elec. Corp.*, 86 FERC ¶ 61,062 (1999); *Cent. Hudson Gas & Elec. Corp.*, 88 FERC ¶ 61,138 (1999)).

<sup>21</sup> *Id.* at 4 (citing *N.Y. Indep. Sys. Operator, Inc.*, 123 FERC ¶ 61,134, at P 13 (2008); *Cent. Hudson Gas & Elec. Corp.*, 86 FERC ¶ 61,062; *Cent. Hudson Gas & Elec. Corp.*, 88 FERC ¶ 61,138).

<sup>22</sup> *Id.*

001-107.3.1, 001-Appendix A, and 001-Appendix B;

- WEQ-004, Standards 004-3, 004-18, and 004-Appendix A and 004-Appendix C; and
- WEQ-023, Standards WEQ-023-5; WEQ-023-5.1; WEQ-023-5.1.1; WEQ-023-5.1.2; WEQ-023-5.1.2.1; WEQ-023-5.1.2.2; WEQ-023-5.1.2.3; WEQ-023-5.1.3; WEQ-023-5.2; WEQ-023-6; WEQ-023-6.1; WEQ-023-6.1.1; WEQ-023-6.1.2; and WEQ-023-A (Appendix A).<sup>23</sup>

NYISO also requests that the Commission renew the waivers of Business Practice Standards WEQ-002, WEQ-003, and WEQ-013 in their entirety. NYISO states that continued waiver is warranted because the Business Practice Standards at issue here remain inapplicable or irrelevant to NYISO and its market participants, pertain to services not offered by NYISO, or fall under an exemption due to NYISO's role as an independent system operator.<sup>24</sup>

11. With respect to request for waiver of WEQ-023 Business Practice Standards cited above, NYISO contends that the rationale set forth in its compliance filing seeking prior waivers of Business Practice Standards WEQ-001-18, WEQ-001-19 and WEQ-001-D (Appendix D) applies in equal force to these standards.<sup>25</sup>

#### **B. Request for New Waivers**

12. NYISO also requests that the Commission grant a waiver from new Business Practice Standards WEQ-001-24 and WEQ-001-25 in their entirety. NYISO explains that WEQ-001-24 addresses consolidation of multiple physical transmission reservations. NYISO further explains that WEQ-001-25 addresses the resolution of conflicts between physical transmission service requests or reservations when the transmission system is oversubscribed. According to NYISO, neither standard is applicable as NYISO's transmission customers do not expressly reserve physical transmission service.<sup>26</sup>

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<sup>23</sup> *Id.* at 4-9; Errata Filing at 1.

<sup>24</sup> Transmittal at 5 (citing 2015 Waiver Order, 151 FERC ¶ 61,157).

<sup>25</sup> Errata Filing at 1-2 (correcting waiver request to reflect relocation of several NAESB Business Practice Standards).

<sup>26</sup> Transmittal at 9.

### **III. Notice and Responsive Pleadings**

13. Notice of NYISO's compliance filing was published in the *Federal Register*, 86 Fed. Reg. 41,468 (Aug. 2, 2021), with interventions and protests due on or before August 17, 2021. Timely motions to intervene were filed by Calpine Corporation and NRG Power Marketing LLC.

14. Notice of NYISO's October 1, 2021 amended compliance filing was published in the *Federal Register*, 86 Fed. Reg. 55,833 (Oct. 7, 2021), with interventions and protests due on or before October 22, 2021. None was filed.

### **IV. Discussion**

#### **A. Procedural Matters**

15. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2021), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

#### **B. Substantive Matters**

16. We accept NYISO's Order No. 676-I revised tariff records effective May 1, 2022, grant the requested waivers, and direct NYISO to make an additional compliance filing. Specifically, we accept NYISO's revised tariff records because they comply with the directives of Order No. 676-I, subject to the additional compliance filing discussed below.

17. Specifically, we grant NYISO's request for waiver of the following WEQ Version 003.2 Business Practice Standards, as requested, for good cause shown: WEQ-001, Standards 001-2, 001-3, 001-4, 001-5, 001-6, 001-7, 001-8, 001-9, 001-10, 001-11, 001-12, 001-13.1.2, 001-13.1.3(c), 001-14, 001-15, 001-16, 001-17, 001-20, 001-21, 001-22, 001-23, 001-101 through 001-107.3.1, 001-A, and 001-B; WEQ-002 Standards, WEQ-003 Standards; WEQ-004, Standards 004-3, 004-18, and 004-Appendix A and 004-Appendix C; WEQ-013 Standards; and WEQ-023, Standards WEQ-023-5, WEQ-023-5.1, WEQ-023-5.1.1, WEQ-023-5.1.2, WEQ-023-5.1.2.1, WEQ-023-5.1.2.2, WEQ-023-5.1.2.3, WEQ-023-5.1.3, WEQ-023-5.2, WEQ-023-6, WEQ-023-6.1, WEQ-023-6.1.1, WEQ-023-6.1.2, and WEQ-023-A. We find that NYISO has supported waiver of the foregoing Business Practice Standards for the reasons set forth in NYISO's filing, and because the rationale used when the Commission previously granted these waivers has not changed. Therefore, consistent with the Commission's previous determination in the 2015 Waiver Order,<sup>27</sup> and for good cause shown, we grant the requested waivers.

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<sup>27</sup> 2015 Waiver Order, 151 FERC ¶ 61,157.

18. As for NYISO's requests for waivers of newly adopted Business Practice Standards, we will grant NYISO's request for waivers of Business Practice Standards WEQ-001-24 and WEQ-001-25 for good cause shown because, as NYISO explains, neither of these Business Practice Standards are applicable to NYISO, as NYISO's transmission customers do not expressly reserve physical transmission service.

19. We find that NYISO failed to properly reference the WEQ Standards in its tariffs as amended by the Errata Notice. In publishing the final rule, the *Federal Register* made various formatting and editorial changes to the text of the regulations, 18 C.F.R. §§ 2.27 and 38.1 (2021), in which the Commission incorporates by reference NAESB's WEQ Business Practice Standards. The regulatory text included with the Commission's Order No. 676-I as issued was revised by the March 3, 2020 errata notice to reflect the regulatory text as published in the *Federal Register*.

20. Consistent with the foregoing determination, we will require NYISO to submit a compliance filing, within 30 days of the date of this order, to revise its tariff records to: (1) include the list of NAESB's WEQ Business Practice Standards exactly as it appears in the errata notice of March 3, 2020 and (2) include a citation to the order granting the waiver requests.

The Commission orders:

(A) NYISO's revised tariff records are hereby accepted for filing, effective May 1, 2022, subject to an additional compliance filing, as discussed in the body of this order.

(B) NYISO's requests for waivers are hereby granted as discussed in the body of this order.

(C) NYISO is hereby directed to make a compliance filing within 30 days of the date of issuance of this order, as discussed in the body of this order.

By the Commission.

( S E A L )



Debbie-Anne A. Reese,  
Deputy Secretary.